

124

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH.**

CWP-6840-2023

Date of Decision : 29.03.2023

AVTAR SINGH AND OTHERS

.....Petitioners

Versus

STATE OF HARYANA AND OTHERS

....Respondents

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MR. JUSTICE VIKRAM AGGARWAL**

Present : Mr. Vikram Singh, Advocate
for the petitioners.

Mr. Raman Sharma, Addl. A.G., Haryana.

SURESHWAR THAKUR, J. (Oral)

Factual Background

1. The Sarpanch of Gram Panchayat village Dhamouli Majri Block Shahzadpur (Ambala), issued, upon the petitioners herein notice(s) drawn under Section 24(2) of the Haryana Gram Panchayati Raj Act, 1994 (in short 'the 1994 Act'). The contents of the said notices are extracted hereinbelow:-

“ You were served with notice on 08.02.2023 under Section 24(1) of Haryana Panchayati Raj Act 1994. You have neither acted upon that notice nor you have appeared before the Panchayat and given any objection therefore : you are given notice under Section 24(2) of the Haryana Panchayati Raj Act 1994 and ordered to remove the encroachment from

16.02.2023 to 23.02.2023 and in case of any objection then you can appear before Panchayat on 23.02.2023 and present evidence. However in case you do not appear on the date fixed and do not remove the encroachment then the panchayat will itself remove the encroachment under Section 24(2) of the Haryana Panchayati Raj Act and cost incurred shall be recovered from you.”

2. That in lieu of the notices (supra), the Deputy Commissioner, Ambala had issued letter dated 17.03.2023 (Annexure P-15) with regard to providing of police assistance to Gram Panchayat Dhamouli, for its being enabled to sow crops on the petition land(s), but after its assuming possession over the disputed land(s). Further, the District Magistrate, Ambala had issued an administrative order dated 22.03.2023 (Annexure P-16), hence for the above said purpose.

Submissions of the learned counsel for the petitioners.

3. Learned counsel for the petitioners submits, that the petitioners cannot be evicted by issuance of notices under Section 24 of 'the 1994 Act', especially when the proceedings under Section 7 of the Haryana Village Common Lands (Regulation) Act, 1961 (for short 'the 1961 Act') are still pending before the Assistant Collector concerned, and, obviously when no eviction order has been passed against them by the competent authority. Moreover, the petitioners filed replies, to the earlier notice(s) issued to them under Section 24(1) of 'the 1994 Act'. Therefore, without considering their replies, yet further notices under Section 24(2) of 'the 1994 Act' have been untenably issued against them rather for evicting them from the disputed land(s). Thus, they are led to institute

thereagainst the instant writ petition, hence for seeking the quashing(s)/settings aside, of the afore administrative orders (supra), as well as the notice(s) (supra).

Inference of this Court.

4. Since this court while deciding CWP-19864-2020 and CWP-4656-2022, had summarized the hereinafter principles, which but cover the common thereto(s) questions of law, as are also involved in the present writ petition.

(i) The exercising of jurisdiction by the Gram Panchayat concerned, through recouring the relevant mandate(s) of Section 24 of the 1994 Act, may be a validly adopted recourse, but only when prior to the makings of the apposite notice, a valid demarcation of the sites concerned, is conducted, and, such notice is validly served upon the respondents concerned.

(ii) The consequent thereto drawing(s) of actions against the encroachers concerned, who raise constructions, upon the vacant places within the abadi deh, may also be a validly drawing action(s), but only when even prior thereto a valid demarcation of the sites concerned, is conducted by competent Revenue Officer:

(iii) The proceedings drawn under Section 24 of the 1994 Act, are summary in nature, thus recourse thereto may be avoided by the Gram Panchayat concerned, especially when evidence in respect of the lands concerned, falling within or outside the ambit of the apposite inclusionary clause, is required to be adduced, and, when such evidence may surface, not in summary proceedings, but may surface in fully contested proceedings, launched under Section 7 or 11 of the Haryana Village Common Land (Regulation) Act, 1961.

Conclusion

5. Thus, in view of the above summarized principles, it can be safely concluded that when the proceedings drawn under Section 24 of 'the 1994 Act', are but summary in nature, and, when but evidence, in respect of encroachments being made upon the petition lands, may not surface in the said summary proceedings, but may surface only in fully contested proceedings, launched under Section 7 or 11 of 'the 1961 Act'. Therefore, when the proceedings under Section 7 are still pending before the learned Assistant Collector concerned, and whereons, the parties/contestants have the fullest opportunity to raise their respective pleas, and, to also adduce evidence in respect of their respective claim(s). Thus, the drawings of Annexure P-15 and Annexure P-16, besides the issuance of notice(s) (supra) are construable to be made with the completest lack of application of mind and rather are rendered in a cryptic, slipshod and in an ill informed manner.

Final order of this Court.

6. For the reasons (Supra), the impugned orders (Annexure P-15 and Annexure P-16), as well as notice(s) (supra), are quashed and set aside. However, it is clarified that the quashing of the administrative order(s) (Annexure P-15 and Annexure P-16), besides notice(s) (supra) shall not be construed as an influencing consideration, by the Assistant Collector First Grade concerned, wherebefore whom a petition under Section 7 of 'the 1961 Act' is pending, rather he shall make an objective independent decision on the said petition, but positively within three months from today. Till the said petition is pending before the Assistant Collector First Grade concerned, thereupto, the parties shall maintain

status quo as of today, in respect of the disputed land.

(SURESHWAR THAKUR)
JUDGE

29.03.2023

(VIKRAM AGGARWAL)
JUDGE

kavneet singh

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No